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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

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11 In Re Subpoenas Of

12 MATT HUME

13 Related Case:

14 CUNG LE, NATHAN QUARRY, JON
15 FITCH, BRANDON VERA, LUIS JAVIER
16 VAZQUEZ, and KYLE KINGSBURY, on
behalf of themselves and all others similarly
situated,

17 Plaintiffs,

18 v.

19 ZUFFA, LLC, d/b/a ULTIMATE FIGHTING
20 CHAMPIONSHIP and UFC,

21 Defendant.
22

Case No. C17-1104RSL

ORDER GRANTING PLAINTIFFS'
MOTION TO TRANSFER

Underlying Case No.: C15-1045RFB-
PAL (D. Nev.)

23 **I. INTRODUCTION**

24 This matter comes before the Court on "Plaintiffs' Motion to Transfer Their Motion to
25 Compel Deposition and Production of Documents by Third Party Matt Hume and Motion for
26 Sanctions." Dkt. # 6. Plaintiffs request that the Court transfer this discovery dispute to the
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1 District of Nevada where the underlying litigation is pending. Dkt. # 6 at 1. Defendants and
2 Nonparties Matt Hume and Group One Holdings PTE Ltd. oppose transfer on the grounds that
3 plaintiffs have failed to demonstrate the existence of exceptional circumstances sufficient to
4 justify a transfer. Dkt. #20 at 3. For the reasons set forth below, the motion to transfer is
5 GRANTED.

6 **II. BACKGROUND**

7 Plaintiffs are professional Mixed Martial Arts (“MMA”) fighters who have fought for
8 defendant Zuffa, LLC, in the past and/or whose name, voice, persona, or likeness has been used
9 by Zuffa for marketing purposes. Dkt. # 6 at 4-5. Zuffa promotes live professional MMA events
10 under the name of Ultimate Fighting Championship or “UFC.” Zuffa hires fighters to perform
11 and market those events. Dkt. # 1 at 6. Plaintiffs allege in the underlying litigation that Zuffa
12 illegally exercised its market power to attain a monopoly over marketing and promotion of
13 MMA events as well as effective monopoly over exclusive access to professional MMA fighters.
14 Dkt. # 6 at 3-4. Zuffa has allegedly done this by acquiring its largest competitors and locking the
15 top MMA fighters into exclusive contracts, thereby preventing fair competition for the fighters
16 and for other MMA organizations to promote themselves. Dkt. # 6 at 3. Plaintiffs allege that
17 Zuffa holds exclusive rights to past footage of fighters they have signed and refuses to license
18 that footage to other promoters even when it is crucial to advertising upcoming fights for that
19 fighter. Dkt. # 6 at 4. The underlying litigation is in the final stages of discovery before class
20 certification, and plaintiffs issued a subpoena seeking the deposition and documents of third
21 party Matt Hume. Dkt. # 1 at 5. Mr. Hume is Vice President for Operations and Competition for
22 Group One Holdings Pte. Ltd., a company which runs an MMA promotion known as One
23 Championship. Dkt. # 1 at 5. In the underlying litigation, Mr. Hume provided a declaration to
24 Zuffa in which he states that “One Championship is not a minor league or feeder league for the
25 UFC” and that it “competes with Zuffa to sign professional MMA fighters.” Dkt. #1 at 5.
26 Plaintiffs seek discovery regarding the veracity of this statement, arguing that the evidence is
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1 directly relevant to their case and will enable them to show that Zuffa denied other MMA
2 promoters, such as One Championship, access to necessary resources and opportunities to
3 promote their fighters and events, thereby diminishing the status of rival promoters. Dkt. # 1 at
4 5. Mr. Hume has refused to appear for deposition or provide the requested documents, prompting
5 plaintiffs to file a motion to compel in the Western District of Washington where compliance is
6 required. Fed. R. Civ. P. 45. Plaintiffs would like to transfer this discovery dispute to the district
7 where the underlying litigation is pending, arguing that Magistrate Judge Peggy A. Leen has
8 overseen discovery in this case for two years, is familiar with the issues, and is best placed to
9 ensure the efficient and consistent resolution of the issues presented.

10 **III. ANALYSIS**

11 A discovery dispute will be transferred from the district where compliance is required
12 only if the person subject to the subpoena consents or exceptional circumstances justify the
13 transfer. Fed. R. Civ. P. 45(f). Mr. Hume does not consent to transfer. Plaintiffs, therefore, bear
14 the burden of showing that exceptional circumstances exist. Fed. R. Civ. P. 45(f) Advisory
15 Comm. Notes (2013).

16 The prime concern should be avoiding burdens on local nonparties subject to
17 subpoenas, and it should not be assumed that the issuing court is in a superior
18 position to resolve subpoena-related motions. In some circumstances, however,
19 transfer may be warranted in order to avoid disrupting the issuing court's
20 management of the underlying litigation, as when that court has already ruled on
21 issues presented by the motion or the same issues are likely to arise in discovery
22 in many districts. Transfer is appropriate only if such interests outweigh the
23 interests of the nonparty served with the subpoena in obtaining local resolution of
24 the motion.

25 Id. Courts in this district have considered a variety of factors when determining if exceptional
26 circumstances exist that warrant transfer. These factors include “[case] complexity, procedural
27 posture, duration of pendency, and the nature of the issues pending before, or already resolved
28 by, the issuing court in the underlying litigation.” Ford Glob. Techs., LLC v. New World Int’l, Inc., 2015 WL 6507151 at *2 (W.D. Wash. Oct. 27, 2015) (citing Judicial Watch, Inc. v. Valle

1 Del Sol, Inc., 307 F.R.D. 30, 34 (D.D.C. 2014)).

2 As noted by the Advisory Committee, the first consideration is whether the transfer of
3 this discovery dispute to the District of Nevada would impose a substantial burden on Mr.
4 Hume. The Court finds that the burden on Mr. Hume would be minimal and is not unreasonable.
5 Mr. Hume has already injected himself into the Nevada litigation, offering testimony in the form
6 of a declaration and making himself a fact witness in the underlying dispute. Plaintiffs have
7 agreed that Mr. Hume can participate in any necessary hearings by telephone and will accept
8 electronic versions of any documents produced. Magistrate Judge Leen has previously ruled that
9 these are acceptable methods for conducting discovery. Dkt. # 6 at 12. Given Mr. Hume's
10 willingness to insert himself into the Nevada litigation and his ability to participate in the
11 proceedings remotely, the general concerns regarding forcing local nonparties to appear in a
12 foreign venue are effectively nullified.

13 Efficiency and judicial economy are best served by transferring this case to the District of
14 Nevada. Discovery in the underlying litigation has been ongoing for two years, and Magistrate
15 Judge Leen has been extensively involved in the litigation, holding ten status conferences and
16 ruling on a number of discovery motions. Judge Leen specifically considered matters related to
17 the subpoena issued to Mr. Hume at a three hour dispute resolution conference held in June of
18 this year. Dkt. # 3-14. Magistrate Judge Leen's extensive knowledge of the intricacies of this
19 complex litigation will allow her to evaluate the relevance of the requested evidence and
20 proportionality more quickly than this Court could. In addition, Magistrate Judge Leen has been
21 involved in scheduling decisions regarding the antitrust case and would be able to prioritize this
22 dispute so it is resolved on a schedule that fits the needs of the underlying litigation. Whatever
23 choice this Court might make between (a) rushing to resolve this discovery dispute to avoid
24 delay in the antitrust action or (b) continuing the case management deadlines to allow careful
25 consideration of the issues presented, it would be wholly disconnected from the expectations of
26 the presiding judicial officer and unlikely to maximize either efficiency or judicial economy.

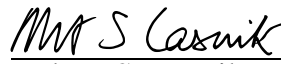
1 Magistrate Judge Leen already considered the possible delays caused by Mr. Hume's initial
2 refusal to accept service of the subpoena(Dkt. # 3-14) and indicated a preferred course of action
3 in those circumstances. Delay is again at issue, and Magistrate Judge Leen's familiarity with the
4 parties, their tactics, and the needs of the case will assist in the efficient and timely resolution of
5 this matter.

6 Mr. Hume points out that some of his objections to the subpoena are idiosyncratic and
7 have not yet arisen in the underlying litigation. Mr. Hume argues that this Court is in just as
8 good a position to determine whether Mr. Hume has custody or control over his employer's
9 documents and whether considerations of international comity should prevent plaintiffs from
10 reaching Group One's documents as is Magistrate Judge Leen. The Court disagrees. The nature
11 of the industry and how promoters perform their functions -- issues with which Magistrate Judge
12 Leen is likely familiar at this point -- will inform the resolution of these discretionary issues.
13 Moreover, these issues cannot be divorced from the substantive question of the importance of
14 the discovery to plaintiffs and the case management issues discussed above.

15 IV. CONCLUSION

16 For all the forgoing reasons, plaintiffs' motion is GRANTED. The Clerk of Court is
17 directed to transfer this discovery dispute to the District of Nevada

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19 Dated this 22nd day of September, 2017.

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21 Robert S. Lasnik
22 United States District Judge
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